

Presented on : 17/05/2024
Registered on : 20/09/2024
Decided on : 30/06/2026
Duration : 02 Y. 01 M. 13 D.

<u>Part-'A'</u> (Title Page of Judgment) <i>(Para 44 (ii) of Chapter VI of Criminal Manual)</i>	
	<u>IN THE COURT OF ADDITIONAL SESSIONS</u> <u>JUDGE, WASHIM</u> Present: J. P. Zapate, Additional Sessions Judge, Washim [Date of the Judgment : 30/06/2026] [Sessions Trial No. 58/2024] CNR No. MHWS010010922024
<u>Exh. No. 32</u>	
Complainant/ Prosecution.	State of Maharashtra, Through Police Station, Malegaon, Dist. Washim. Crime No. 484/2023
Represented By	APP Mr. P. S. Dhoble for the prosecution.
Accused	Santosh Babulal Sharma (A-1) Aged about 55 years, Occu. Daily Needs Business, R/o. Infront of Jain Mandir, Malegaon, Dist. Washim.
Represented By	Adv. Mr. R. S. Joshi for the accused.

<u>Part – 'B'</u> <i>(Para 44 (ii) of Chapter VI of Criminal Manual)</i>	
Date of Offence	30/10/2023
Date of FIR	30/10/2023
Date of Charge-sheet	17/05/2024 (Committed to Sessions Court on 30/08/2024).
Date of Framing of Charges	19/12/2025.
Date of commencement of evidence	26/05/2023.
Date on which judgment is reserved	30/06/2026.
Date of the Judgment	30/06/2026.

Date of the Sentencing Order, if any	Nil.
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Accused Details

Rank of Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.PC.
A-1)	Santosh Babulal Sharma	30/10/2023	04/11/2023	Sections 328, 273, 188 of IPC r/w Section 59 of Food Safety and Standards Act, 2006.	Acquitted	Nil.	Not applicable

Part- 'C'

(Para 44 (iii) of Chapter VI of Criminal Manual)

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Santosh Ramkisan Joshi.	Panch witness
PW-2	Santosh Piraji Suradkar.	Panch witness.
PW-3	Mohammad Farid Abdul Rashid Siddique.	Informant.

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW-1	Nil.	Nil.

C. Court witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW-1	Nil.	Nil.

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**A. Prosecution**

Sr. No.	Exhibit Number	Description
1.	Exh. 22.	Seizure panchanama.
2.	Exh. 23.	FIR.
3.	Exh. 24.	Printed FIR.
4.	Exh. 25.	Prohibited GR.

B. Defence :

Sr. No.	Exhibit Number	Description
1.	Nil.	Nil.

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
1.	Nil.	Nil

D. Material Objects :

Sr. No.	Exhibit Number	Description
1.	Nil.	Nil

J U D G M E N T

(Dated 30/06/2026)

1) The accused Santosh Babulal Sharma stands prosecuted for the offence punishable under Sections 328, 273, 188 of IPC r/w

Section 59 of Food Safety and Standards Act, 2006.

2) It is the prosecution story that informant Mohammad Farid Abdul Rashid Siddiqui effected raid on M/s. Mauli Daily Needs, Malegaon on 30/10/2023 along-with Mr. B. K. Chavhan and one panch. They found accused present in that shop. They taken search of the shop in which they found scented tobacco, Pan Masala of various company in the shop. The articles were prohibited. Its total worth was Rs. 85,570/-. They separated samples and seized muddemal. He prepared panchanama and lodged FIR.

3) On the basis of FIR, present crime came to be registered. Thereafter, Investigating Officer recorded statements and after completion of formalities, he submitted charge-sheet before the Court.

4) The Ld. Magistrate, after complying with provisions of Section 207 of Cr. P. C., committed the case under Section 209 of Cr. P. C. and this Court possess jurisdiction to take cognizance under Section 193 of Cr. P. C.

5) After opening the case by the Ld. APP, both parties were heard. Thereafter, charge at Exh. 13 came to be recorded. After recording of prosecution evidence, statement of accused under Section 313 of Cr. P. C. came to be recorded below Exh. 31. Defence is of denial.

6) Having heard, following points arise for my consideration together with my findings there on for the reasons recorded below.

Sr. No.	POINTS	DECISION
1)	Whether the prosecution proves that on 30/10/2023, at Malegaon within the jurisdiction of PS Malegaon, accused administered Nazar, Nazar Premium, Wah Pan Masala, Bajirao Gold, W Tobacco, Vimal, V-1, Pan Bahar, Vimal Pan,	.. In the Negative.

	Raijiwas, Premium Z, etc. containing Tobacco and other stupefying thing to be taken by the public knowingly it to be likely to cause hurt thereby to the public at large with the intention to commit or facilitate the commission of the offence and thereby committed an offence punishable under Section 328 of IPC and within the cognizance of this Court ?	
2)	Whether the prosecution proves that on the same same date, time and place and during the course of same transaction, the accused offered and exposed for sale as food article namely Nazar, Nazar Premium, Wah Pan Masala, Bajirao Gold, W Tobacco, Vimal, V-1, Pan Bahar, Vimal Pan, Raijiwas, Premium Z, etc. containing Tobacco which had become noxious as a food and was in a state unfit for food knowingly and having reason to believe that the same is noxious as food and thereby committed an offence punishable under Section 273 of IPC and within the cognizance of this Court ?	.. In the Negative.
3)	Whether the prosecution proves that on the same same date, time and place and during the course of same transaction, the accused knowing that by and order of the Commissioner of Food Safety of Maharashtra Government by circular, the State Government has prohibited the sale of Nazar, Nazar Premium, Wah Pan Masala, Bajirao Gold, W Tobacco, Vimal, V-1, Pan Bahar, Vimal Pan, Raijiwas, Premium Z, etc. and promulgated lawfully empowered to promulgate the said order where under the accused was directed to obtain from the sale, exposure and possession of the said Tobacco and the accused found in his possession and have disobeyed such directions, the disobedience which is likely to cause suffering to public at large and thereby committed an offence punishable under Section 188 of IPC and within the cognizance of this Court ?	.. In the Negative.

4)	Whether the prosecution proves that on the same date, time and place and during the course of same transaction, the accused stored, distributed and imported the above Nazar, Nazar Premium, Wah Pan Masala, Bajirao Gold, W Tobacco, Vimal, V-1, Pan Bahar, Vimal Pan, Raijiwas, Premium Z, etc. for human consumption which is unsafe and thereby committed an offence punishable under Section 59 of Food Safety and Standards Act, 2006 and within the cognizance of this Court ?	.. In the Negative.
5)	What Order ?	.. As per final order.

REASONS

As to Point Nos. 1 to 4 -

7) In the case, panch witness Santosh Ramkisan Joshi – PW-1 at Exh. 18 has not supported the prosecution.

8) The PW-2 Santosh Piraji Suradkar at Exh. 19 has also not supported the prosecution.

9) The PW-3 Mohammad Farid Abdul Rashid Siddique has stated as per terms of the FIR, but his cross-examination shows that he did not verify about the person in whose name license of the shop was granted. He has not complied with the provisions of Section 47 of Food Safety and Standards Act. The chemical test was not conducted within 14 days.

10) Thus, it reveals from his cross-examination that he has not complied with Section 47 of the Food Safety and Standards Act. The provision shows that before collection of the samples, he had to issue notice to the concerned accused. Sampling had to be made in four parts and further procedure had to be followed, but he has not

complied with this mandatory provision. In such circumstances, sole testimony of this witness is difficult to be believed. Therefore, I record my findings in the negative as to point Nos. 1 to 4 and pass following order -

ORDER

- 1) The accused **Santosh Babulal Sharma**, aged about 55 years, Occu. Daily Needs Business, R/o. Infront of Jain Mandir, Malegaon, Dist. Washim is acquitted of the offences punishable under Sections 328, 273, 188 of IPC r/w Section 59 of Food Safety and Standards Act, 2006 in crime No. 484/2023 registered with police station, Malegaon vide section 235 (1) of Cr. P. C.
- 2) The bail bond of all accused stands cancelled and surety discharged.
- 3) The accused is hereby directed to execute bail bonds of Rs. 10,000/- (Rupees ten thousand only) with one solvent surety in the like amount in compliance with the provision of Section 437 (A) of Cr. P. C. to abide himself to appear before the Higher Court as and when said Court issues notice in respect of any appeal or petition filed against this judgment.
- 4) The property i.e. Nazar, Nazar Premium, Wah Pan Masala, Bajirao Gold, W Tobacco, Vimal, V-1, Pan Bahar, Vimal Pan, Raijiwas, Premium Z, etc., and other muddemal be destroyed after expiry of the period of appeal, and only after seeking confirmation from the Registry of Hon'ble High Court of Bombay Bench at Nagpur that no appeal or other proceeding challenging this judgment is pending before the Hon'ble High Court.
- 5) The copy of the judgment be supplied to the District Magistrate,

Washim.

6) Sessions Trial No. 58/2024 stands disposed of.

(Judgment dictated, delivered and pronounced in open Court).

Date:– 30/06/2026.

(J. P. Zapate)
Additional Sessions Judge,
Washim.

CERTIFICATE

I affirm that the contents of this PDF file word to word are same as per original judgment/order.

Name of Stenographer	:	A. W. Ajmire, Steno (G-II)
Court Name	:	Principal District & Sessions Judge, Washim.
Date of order/Judgment	:	30/06/2026
Judgment dictated on	:	30/06/2026
Order/Judgment signed by Presiding Officer on	:	30/06/2026
Order/Judgment uploaded on	:	30/06/2026